IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.02.2015

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.3340 to 3348 of 2015

and M.P.Nos.1 of 2015

Tvl. Caparo Engineering India P. Ltd.
Rep by its Regional Finance Controller
Mr.Srinivasan Kannan
No.46 Poonamallee Road
Ramapuram Chennai 89 ..Petitioner in all WPs.

Vs

The Assistant Commissioner (CT)
Nandambakkam Assessment Circle
Chennai 94
.. Sole Respondent in all WPs

Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus to call for the impugned proceedings of the Respondent in CST / 847877 / 2008-2009, 2009-2010, 2011-2012, 2012-2013, and TIN/33170843995/ 2008 - 09, 2009-2010, 2010-2011, 2011-2012, 2012-13 respectively dated 31.12.2014 and quash the same and consequently direct the Respondent to redo the Assessment after giving personal hearing.

For Petitioner in all WPs: Mr.R.Sivaraman
For Respondent in all WPs: Mr.Kanmani Annamalai, AGP(T)

C O M M O N O R D E R

Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes) for the respondent.

2. The Petitioner has come forward with these writ petitions challenging the orders of the respondent dated 31.12.2014.

3. The learned counsel for the petitioner submits that on receipt of notices dated 10.10.2014 with regard to TNVAT proceedings for the respective assessment years, calling for objections from the petitioner, on 20.11.2014 they filed replies and requested for personal hearing before passing any orders. On 16.12.2014, the petitioner appeared before the respondent for personal hearing and requested for further hearing on 22.12.2014

and further objections were filed on 19.12.2014 with a requisition to consider the same also before passing final orders. Similarly, according to the learned counsel for the petitioner, for the notices dated 05.12.2014 issued with regard to CST proceedings for the respective assessment years, calling for objections from the petitioner, the petitioner appeared for personal hearing on 16.12.2014 and requested for further hearing on 22.12.2014 and on 22.12.2014, the petitioner filed objections and requested to consider that also before passing final orders. However, the authority proceeded to pass orders on 31.12.2014, stating that the petitioner has already appeared and furnished their replies and on verifying the same, orders have been passed.

4. A glance of the replies dated 19.12.2014 in respect of TNVAT proceedings and the replies dated 22.12.2014 in respect of CST proceedings would clearly show that the petitioner has sought for further personal hearing. However, without giving such opportunity, impugned orders have been passed. Granting personal hearing is not a personal hearing for the sake of hearing, but for conducting a detailed investigation, to enable the authority to pass detailed orders on merits. Appearance on the earlier date of the petitioner cannot be said that personal hearing was given to him. Even though the authority has stated that with earnest efforts passed detailed orders, I am of the view that the same have to go in view of technical objections taken by the petitioner, for which the respondent is solely responsible, since the petitioner has go be given another opportunity before passing final orders, which is mandate in terms of the provisions of the Act.

5. The learned Additional Government Pleader (Taxes) is not able to refute the contention raised by the petitioner except contending that the petitioner can raise all the objections before the appellate authority and that in order to avoid payment of portion of the respective tax, which is the precedent for filing appeal, the writ petitions have been filed by the petitioner on technical grounds.

6. Though the petitioner has got a right of appeal, since there is violation of principles of natural justice, I set aside the impugned orders dated 31.12.2014 and remit the matters back to the original authority to pass orders afresh on merits and in accordance with law. Since the proceedings are initiated under two different enactments for various assessment years, an opportunity should be given in such a way that the hearing is separately offered on different dates, so that the petitioner cannot complain of no opportunity being given at a later date. The authority should ensure that very same hearing dates are not given with regard to two proceedings initiated under CST and TNVAT.

The writ petitions are disposed of accordingly. No costs. Connected miscellaneous petitions are closed.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

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To

The Assistant Commissioner (CT)
Nandambakkam Assessment Circle
Chennai 94

+ 1 cc to Mr.R. Sivaraman, Advocate SR.7928
+ 1 cc to Special Government Pleader(Taxes) SR.7586

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KU(CO)
EU 24.02.15